

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS EARL BAILEY,
Plaintiff,

v.

JESSE KIRSCH, M.D., et al.,
Defendants.

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CIVIL ACTION NO. 19-CV-3263

ORDER

AND NOW, this 30th day of July, 2019, upon consideration of Plaintiff Thomas Earl Bailey's Motion to Proceed *In Forma Pauperis* (ECF No. 2), his Prisoner Trust Fund Account Statement (ECF No. 3), and his *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Thomas Earl Bailey, #2000-3757, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Berks County Jail or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Bailey's inmate account; or (b) the average monthly balance in Bailey's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Bailey's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Bailey's inmate account until the fees are paid. Each payment shall reference the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of Berks County Jail.

4. The Complaint is **DEEMED** filed.

5. Bailey's Complaint is **DISMISSED without prejudice** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for the reasons in the Court's Memorandum.

6. Bailey is given thirty (30) days to file an amended complaint. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Bailey's claims against each defendant. When drafting his amended complaint, Bailey should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

7. The Clerk of Court shall send Bailey a blank copy of the Court's form complaint to be used by a prisoner filing a civil rights action bearing the above civil action number. Bailey may use this form to file his amended complaint if he chooses to do so.

8. If Bailey fails to comply with this Order, his case may be dismissed for failure to prosecute without further notice.

BY THE COURT:

/s/ Gerald Austin McHugh

GERALD A. MCHUGH, J.